

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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VERNA AUSTIN,	)	
	)	
Plaintiff,	)	Case No. 1:13-cv-443
	)	
v.	)	Honorable Paul L. Maloney
	)	
LAWRENCE LYNELL SIMMONS,	)	
	)	
Defendant.	)	
<hr style="width:40%; display:inline-block; vertical-align:bottom;"/>	)	

**ORDER DENYING APPLICATION  
TO PROCEED IN FORMA PAUPERIS**

This action was removed from the Kalamazoo County Circuit Court to this court by defendant Lawrence Lynell Simmons. Defendant has requested leave of court to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. His affidavit of financial status discloses that plaintiff and his spouse own a home valued at \$75,000 and a new vehicle (a 2013 Kia Sorrento) worth \$23,000. Although it appears that plaintiff does not have an income, plaintiff's spouse is employed and receives approximately \$3,200.00 per month. Plaintiff has \$9,000.00 in cash in the bank.

The court should only grant leave to proceed *in forma pauperis* when it reasonably appears that the cost of filing would impose an undue financial hardship. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988). In this case, defendant's financial affidavit discloses that the filing fee of \$350.00 would not be beyond his means. In such circumstances, a person does not qualify for pauper status and the application under 28 U.S.C. § 1915(a) should be denied. *See Fromal v. Jackson (In re Fromal)*, No. 93-1883, 1995 WL 230253, at \* 1 (4th Cir. Apr. 18, 1995); *Williams*

*v. Latins*, No. 88-6167, 1989 WL 67117, at \* 1 (9th Cir. June 9, 1989); *Boutte v. Taplin*, No. 04-128, 2004 WL 626286, at \* 2 (E.D. La. Mar. 30, 2004); *Waddy v. Matheson Tri-Gas, Inc.*, No. 3-03-cv-3075-N, 2004 WL 344179, at \* 2 (N.D. Tex. Feb. 11, 2004); *Scott v. Bell Atlantic Corp.*, No. CIV 93-5970, 1995 WL 50973, at \* 1 (E. D. Pa. Feb. 7, 1995); *Temple v. Ellerthorpe*, 586 F. Supp. 848 (D.R.I. 1984); *accord Wilson v. Yaklich*, 148 F.3d 596, 603 (6th Cir. 1998) (IFP status is a privilege not a right).

Accordingly, defendant's application for leave to proceed *in forma pauperis* is DENIED. Defendant shall submit the filing fee within 30 days of the date of this order.

Dated: April 29, 2013

/s/ Paul L. Maloney  
Paul L. Maloney  
Chief United States District Judge